



Public Notice

Applicant: N/A

Date:

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**U.S. Army Corps
of Engineers**

In Reply Refer To:

Huntington District **CELRH-OR-FN RE: 2004-001(0)** **Section: OH 10 and 404**

This Public Notice announces Huntington District's proposal to accept and expend State and/or Federal funds contributed by the Ohio Department of Transportation (ODOT) in conjunction with the Federal Highway Administration (FHWA). The funds would be accepted pursuant to any of the following authorities:

1. Intergovernmental Cooperation Act (31 U.S.C. 6505);
2. Section 214(a) of the Water Resources Development Act (WRDA) of 2000 (P.L. 106-541) and subsequently extended by Section 114 of the Energy and Water Appropriations Bill, H2754 (P.L. 108-137); and
3. Section 1309 of the Transportation Equity Act for the 21st Century (TEA-21) (P.L. 105-178).

ODOT is anticipating an overall increase in the need for U.S. Army Corps of Engineers (Corps) reviews and permit authorizations under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. The funds would expedite the exchange of concerns and information between the Corps, ODOT and other agencies, including initiation of such dialogues prior to the submission of the application. This early and continuing dialogue is expected to enable ODOT to incorporate these concerns in the project design and application submittals. Under the proposed process of efficient transportation decision making the Corps would be obtaining information early in the ODOT process and prior to ODOT's submission of an application. After submittal of the application (and, when applicable, the end of the public notice comment period) it is expected that this early involvement would result in fewer requests for additional information than under the current process thereby shortening the time between application and the permit decision. The permit decision itself would not be affected by the funds and this process. The Corps' decision whether to issue or deny the permit is and would continue to be based on Corps' regulations, the analysis of the proposed project, ODOT's submittals, comments from the public (where applicable) and other information. The Huntington District and the Regional Headquarters office of the Corps have coordinated with the remaining three Districts with regulatory authority in Ohio (Buffalo, Louisville and Pittsburgh Districts) concerning the proposed agreement between the Corps, ODOT and the FHWA.

The Huntington District will evaluate and process all ODOT permit applications for the entire State of Ohio.

The Corps' regulatory program is funded as a congressionally appropriated line item in the annual federal budget. Additional funds received from non-Federal public entities would be used in accordance with the provisions of the above authorities to prioritize and more expeditiously review and process ODOT projects. The Huntington District would establish a separate account for the ODOT funding to track receipt and expenditure of funds. Huntington District regulatory staff would charge their time against the respective account when they performed work on ODOT projects. With the additional funds, the Huntington District would hire additional regulatory staff to work on ODOT proposals and permit applications. The staff would be located in Columbus, Ohio, as a field office of the Huntington District.

Funds would mainly be expended on the salaries and overhead of Regulatory Project Managers performing expedited evaluation activities for ODOT. Work would include, but is not limited to: review of jurisdictional determinations/verifications, permit applications, project alternatives, ecological surveys, environmental documents, mitigation plans, functional assessments, etc; project meetings, field investigations and interagency meetings; programmatic initiatives; etc. Funds may also be expended to hire contractors to perform select duties such as site investigations and administrative duties.

To assure impartial decision making, all final permit decisions for cases where these funds are used would be reviewed by at least one level above the decision maker, unless the decision maker is the Commander of the Huntington District. For example, the project manager may prepare the recommendation for the permit decision, his or her Section Chief may be the permit decision maker, but then the permit decision would be reviewed by the Branch Chief.

The Huntington District does not expect this method of expediting permit review of ODOT projects to negatively impact the Huntington District's regulatory program or to increase the processing time for other permit evaluations. With the addition of personnel dedicated to work on ODOT projects, current Regulatory staff within the four Corps Districts in the state of Ohio will be able to devote their resources to non-highway projects.

Following the close of this Public Notice, the Huntington District Commander will determine whether or not acceptance and expenditure of funds as described above is in compliance with the above authorities and the public interest is better served through cost-effectiveness, enhanced evaluation capability, streamlined permit processing or other appropriate justification. A final Public Notice will be issued announcing the District Commander's decision. No new Public Notices will be issued if it is necessary to increase funds, provided the purpose remains the same. (The Buffalo District file number is 2004-02492.)

Comments should reach the Huntington District office, no later than the expiration date of this Public Notice. **Comments should be directed to: U.S. Army Corps of Engineers; Huntington District ATTN: OR-FN Rebecca Rutherford; 502 Eighth Street; Huntington, WV 25701.**

If you have any questions concerning this notice, please contact Ms. Rebecca A. Rutherford of the Huntington District at (304) 399-5210.

SIGNED

Thomas C. Switala
Chief, Regulatory Branch
Buffalo District

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for 30 days from the date of issuance.